

RULES FOR MANDATORY JUDICIAL BRANCH EDUCATION

INTRODUCTION

It is essential to the public that judges and judicial branch employees continue their education in order to maintain and increase their professional competence, to fulfill their obligations under the Nebraska Code of Judicial Conduct, and to ensure the delivery of quality judicial services to the people of the State of Nebraska. These rules establish minimum requirements for judicial branch education for all Nebraska judges and judicial branch employees.

RULE 1: ADMINISTRATION AND MONITORING

The Director of Judicial Branch Education (Director) shall administer the program of mandatory judicial branch education established by these rules. The Nebraska Judicial Branch Advisory Education Committee (Committee) shall formulate rules and regulations and may modify or amend the same subject to approval by the Supreme Court. All rules and regulations shall clearly state an effective date.

Rule 1 amended December 13, 2006.

RULE 2: REQUIRED CONTINUING JUDICIAL BRANCH EDUCATION

(a) Subject to subsections (c) and (d) of this rule, each trial judge and appellate judge of the State of Nebraska shall earn a minimum of 10 judicial branch education credits in each annual reporting period. Clerk magistrates, probation officers, and official court reporters shall earn a minimum of eight judicial branch education credits in each annual reporting period. All other judicial branch employees shall attend judicial branch education programs as directed by the Supreme Court or the Committee. The Administrative Office of the Courts and Probation may require employees to attend educational programs in excess of the hours established above.

(b) Judicial branch education credits for each employee shall be reported to the Director in such form and manner as the Committee shall prescribe.

(c) A retired judge working more than 60 days (whether part or full days) per year in a judicial capacity shall be required to fulfill the judicial branch education requirements.

(d) The Committee may grant extensions of time to complete judicial branch education requirements for good cause shown. The press of business shall not be considered good cause.

Rule 2(b) amended February 1, 2006; Rule 2(a) amended, Rule 2(b) deleted, Rule 2(c)-(e) renumbered, and Rule 2(c) amended May 23, 2007.

RULE 3: REQUIREMENTS FOR INDIVIDUAL COURSE APPROVAL

(a) The primary objective of judicial branch education is to increase the professional competence of judicial branch employees and to assist the employees in providing appropriate judicial branch services. Judicial branch education credits will be granted for a particular activity if the Committee determines that the activity meets the following standards:

(1) It constitutes an organized program of learning, including a lecture, workshop, or symposium, which contributes directly to the professional competency of the judicial branch employee;

(2) It pertains to subject matter having significant intellectual or practical content relating to the administration of justice or to the education of judges with respect to their professional or ethical obligations; and

(3) It is conducted or taught by individuals who have appropriate academic or practical skills to conduct the course effectively and who have special education, training, or experience. It provides each attendee with written course materials which substantively pertain to the subject matter of the program. The materials shall be of a quality and quantity which indicate that adequate time has been devoted to their preparation and will be of value to the attendees in their employment.

(b) During all courses, including those presented by telecommunications or utilizing other educational technologies, there must be an opportunity to ask questions of the course faculty. If a faculty member is not available either in person or via telephone, then a qualified commentator must be available to offer comment and answer questions directly, in writing, or via e-mail.

(c) Programs, seminars, or activities that cross professional lines, such as medical-legal programs or humanity programs, may be approved if the committee determines that the standards set forth herein are satisfied.

(d) The Principles and Standards of Nebraska Judicial Education are hereby adopted.

RULE 4: ACCREDITATION OF SPONSORS AND APPROVAL OF PROGRAMS

(a) If the Committee is satisfied that a sponsor's program meets the requirements set forth in Rule 3, the Committee may accredit such sponsor and its program without formal application from such sponsor as required in subsection (b) of this rule.

(b) An organization or person desiring accreditation as a sponsor of courses, programs, or other judicial branch education activities, not otherwise accredited by the Committee, may apply for accreditation to the Committee. The Committee shall accredit a sponsor if it is satisfied that the sponsor's program will meet the standards set forth in Rule 3.

(c) A sponsor wishing to apply for accredited-sponsor status shall submit to the Committee, on a form approved for that purpose, information on other judicial branch education programs offered during the 2 years immediately preceding the request for accredited sponsor status. If the sponsor has been offering judicial branch education courses for 5 years or less, the Committee may, at its discretion, request submission of course materials for inspection.

(d) The Committee may at any time reevaluate an accredited sponsor. If after such reevaluation the Committee finds there is cause for revocation of the accreditation of a sponsor, the Committee shall issue a show cause order why such accreditation should not be revoked and the Committee may, at its discretion, hold a hearing thereafter and may revoke the accreditation of the sponsor. If the Committee in its judgment concludes that a course fails to meet the standards for approval, it may deny or withhold approval for the course even though offered by an accredited sponsor.

(e) An organization or person, other than an accredited sponsor, desiring prior approval of a course, program, or other judicial branch education activity, or a judge or judicial branch employee of this State who desires to have such activity approved for judicial education branch credit prior to attendance, shall apply for approval to the Committee at least 45 days before the activity. The Committee shall approve or deny such application in writing within 30 days of receiving the application.

(f) A judge or judicial branch employee seeking credit for participation in an education activity for which credits were not approved in advance by the Committee shall, before or after the activity, submit to the Committee a written report which includes a brief resume of the activity; its dates, subjects, and instructors and their qualifications; and a copy of the program outline, brochure, or other documentation upon which the Committee can make a determination as to the credits to which the applicant is entitled. Within a reasonable time after receipt of the written report and accompanying materials, not to exceed 90 days, the Committee shall advise the judge or judicial branch employee in writing of the number of credits, if any, being granted.

(g) Credit will be given on a reciprocal basis to programs approved by continuing judicial education committees or continuing legal education committees of other jurisdictions on an hour-by-hour basis.

(h) During all courses, including those presented by telecommunications or utilizing other educational technologies, there must be an opportunity to ask questions of the course faculty. If a faculty member is not available either in person or via telephone, then a qualified commentator must be available to offer comment and answer questions directly, in writing, or via e-mail.

(i) Sponsors of courses who have been approved may announce in information brochures or registration materials: "Subject to the Nebraska Supreme Court Judicial Branch Education Rules, this course has been approved by the Judicial Branch Education Committee for a maximum of ___ credits." Sponsors of courses for which approval has been sought, but not yet received, may announce: "Application for judicial branch education credit approval of this activity in Nebraska is currently pending."

RULE 5: CREDIT FOR PARTICIPATION

(a) Judicial branch employees shall not be required to fulfill their mandatory education requirement until the end of their first full year of employment.

(b) Upon application, the Committee may award such credit as it determines for authorship of legal articles or books.

(c) The Committee may award up to 6 credits for preparation and speaking at an approved program or for preparing written materials which are distributed at an approved judicial branch education program. The credits shall be in addition to credits for attendance at the judicial branch education program.

(d) Questions regarding the appropriateness of awarding judicial branch education credit for attendance at judicial education programs not sponsored by Nebraska Judicial Branch Education, or requests for funding to attend such programs, shall be initially submitted to and resolved by the Judicial Branch Education Director. Denial of such credits or requests for funding by the Director may be reviewed by the Judicial Branch Education Advisory Committee.

(e) Judicial Branch Education credits shall not be given to judges for attendance at programs not sponsored by Nebraska Judicial Branch Education which do not adhere to ethical standards of the Code of Judicial Conduct, including, but not limited to, Canon 4, section 4H. It is the responsibility of the individual judge who seeks to participate in a nonsponsored judicial branch education activity to ensure that the program agenda is appropriately balanced and that attendance at such program complies with the Nebraska Code of Judicial Conduct.

Rule 5(a) amended February 1, 2006; Rule 5(d) and (e) amended December 13, 2006.

RULE 6: SANCTIONS FOR FAILURE TO COMPLY WITH MANDATORY EDUCATION RULES

(a) A judge who submits a false report for judicial branch education credits or who fails to correct an erroneous transcript of judicial branch education credits shall be reported to the Judicial Qualifications Commission for disciplinary proceedings. Other judicial branch employees who shall submit a false report for judicial branch education credits or who fail to correct an erroneous transcript of judicial branch education credits shall be subject to dismissal from employment or such other sanctions as believed appropriate by the Supreme Court pursuant to the Supreme Court Personnel Policies and Procedures Manual.

(b) In the event a judge fails to comply with these rules, the Committee shall promptly notify the judge of the noncompliance by sending a notice thereof to the judge at the judge's principal place of office. The statement of noncompliance shall advise the judge that within 30 days a plan to correct the noncompliance must be submitted to the Committee for its consideration and approval. Should the judge fail to correct the noncompliance within a reasonable period of time, the Committee shall report the noncompliance to the Nebraska Judicial Qualifications Commission as a possible violation of Canon III of the Nebraska Code of Judicial Conduct. Furthermore, the Supreme Court may enter an order requiring the judge to appear and show cause why sanctions should not be imposed by the Court against the judge for willful failure to comply with these rules of the Court.

(c) Should any judicial branch employee fail to comply with these rules for judicial branch education, the Committee shall promptly notify the individual of the noncompliance by sending a notice thereof to the individual at the individual's work address. The employee's supervisor shall also be notified of the noncompliance. The statement shall advise the individual that the noncompliance must be corrected within 30 days or a written plan to correct the noncompliance must be submitted to the Committee for its approval within 30 days. Failure of the individual to correct the noncompliance shall subject the individual to such sanctions as are permissible in the Supreme Court Personnel Policies and Procedures Manual including the possible termination of employment.

(d) Unless otherwise directed by the Supreme Court, the files, records, and proceedings of the Committee, as they may relate to or arise out of the failure of an individual to satisfy the minimum judicial branch education requirements established by these rules, shall be confidential and shall not be disclosed except in furtherance of the Committee's duties or upon request of the individual affected.

RULE 7: ANNUAL REPORTING

The annual reporting period is a period of 1 year with the first period beginning on the first day of January after an individual becomes an employee of the judicial branch and continuing until the last day of December of each year.

RULE 8: COMPUTATION OF JUDICIAL BRANCH EDUCATION CREDIT

Credit for approved programs shall be awarded on the basis of 1 credit for each hour actually spent in attendance at approved or accredited judicial branch education activities. Partial credit may be earned on a 1/10 hour basis.

Rule 8 amended February 1, 2006.

RULE 9: EFFECTIVE DATE

These rules shall be effective on or after July 1, 2004. An implementation schedule for specific groups of judicial branch employees has been developed by the Director and will be followed in implementing the terms of this rule. Full implementation of mandatory judicial branch education is anticipated by fiscal year 2007-08, if resources permit.